



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF F-P-D-B-

DATE: JULY 10, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a table tennis coach, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had not shown that he met any of the ten evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional evidence and contends that he meets three criteria.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner is a table tennis coach. As he has not established that he has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director held that the Petitioner did not meet any of these criteria. On appeal, the Petitioner asserts that he meets the criteria for awards, membership, published material, original contributions of major significance, display, and leading or critical role at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (v), (vii), and (viii). Upon reviewing all of the evidence in the record, we find that the Petitioner has not established that he satisfies at least three criteria.

A. Evidentiary Criteria

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Director held that the Petitioner had not met this criterion. In referencing the awards received by the players the Petitioner coached, the Director held that in order for him to meet this criterion he must be the recipient of an award for his role as a coach. The Director then acknowledged an award the Petitioner received for his work with the [redacted] table tennis team, but he held that the record did not establish what criteria was used to give this award. The Director also held that he had not shown that this amounted to a nationally or internationally recognized award for excellence in the field.

On appeal, the Petitioner states that he has received distinguished awards and honors for excellence in the field as a top international table tennis coach. The record contains an article from the sports section of the [redacted] *Daily* newspaper entitled, [redacted]" which states that the Petitioner "received the trophy from [the] President of the [redacted]

[redacted], [redacted] who congratulated him for his work for the development of Table Tennis in [redacted] and the region.” The record contains another article about this award from the sports section of the [redacted] Daily newspaper entitled, [redacted] [redacted] which has a photograph of the Petitioner receiving a trophy. The Petitioner has not explained how this represents a nationally or internationally recognized award or submitted evidence that would establish this award as having the level of recognition required under this criterion. Therefore, we agree with the Director that the Petitioner has not demonstrated that this award represents a nationally or internationally recognized award for excellence in the field, as required to establish eligibility under this criterion.

Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).

In the Director’s request for evidence (RFE), he noted that the Petitioner had submitted evidence showing that he is a member of several table tennis associations but that the record did not establish that these required outstanding achievements of their members. Following receipt of the Petitioner’s response to the RFE, the Director held that the Petitioner had not submitted the constitution or bylaws that discuss the membership requirements of these organizations, noting that letters discussing membership are not primary evidence. In the appeal brief, the Petitioner states that “the record contains clear evidence of [his] extensive coaching credentials with highly competitive, distinguished, and selective international athletic organizations including the [redacted] [redacted] [redacted] . . .”

With the exception of one identification card from the Sport Association of [redacted] we note that the record does not contain direct evidence demonstrating that the Petitioner has membership in any organization, including those noted above. Rather, the record contains several letters from individuals who have worked closely with the Petitioner that reference his affiliation with those organizations, but these letters do not attest to his membership in them. The documentation from these organizations in the record pertains to the coaching certification courses he has taken, but these do not expressly indicate his membership in the organizations.

Second, even if the record contained evidence of his membership in these organizations, the Petitioner has not shown that they require outstanding achievements as a prerequisite for membership as judged by nationally or internationally recognized experts in the field. He contends on appeal that the record demonstrates that these organizations “only select coaches and athletes of the highest caliber for membership and participation in their activities,” but he has not provided evidence supporting his assertion. Additionally, the Petitioner has not demonstrated how being a “high caliber” coach or player constitutes an outstanding achievement to meet the requirements of this criterion. Here, the Petitioner has not provided documentation of the criteria these organizations use for granting membership or documentation establishing the expertise and recognition of those individuals judging an applicant for admission.

While the record does contain an identification card from the Sport Association of [REDACTED] within the [REDACTED] the Petitioner has not established that membership in this organization is based on outstanding achievements as judged by nationally or internationally recognized experts in the field. The record does not contain the organization's bylaws or similar evidence demonstrating the criteria upon which its membership is based, nor does it establish that nationally or internationally recognized experts in the field are the judges of an individual's achievements for membership in this organization. Therefore, the Petitioner has not established that he meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).

The Director held that the articles submitted do not meet this criterion because they are not primarily focused on the Petitioner. The Director further concluded that the Petitioner had not demonstrated that the material was published in professional or major trade publications or other major media.

On appeal, the Petitioner states that he has significant published material about his coaching career that was published in major international media. He specifically notes that the record includes "media articles and high-level competition results for the distinguished athletes and team(s) he has coached." Here, we find that the majority of the publications in the record quote him in discussing competitions that his players are involved in, but the Petitioner has not explained how these articles are about him. Articles that are not about the petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show are not about the actor).

As discussed above, the record also contains two articles from the sports section of the [REDACTED] Daily newspaper. While a portion of these articles discusses the Petitioner's work in developing table tennis in the region, the focus of them is on the [REDACTED] table tennis team, and the Petitioner has not explained how they are about him. Both titles of these articles discuss the team or the players under the headlines [REDACTED] and [REDACTED].

[REDACTED] While the latter article contains quotations from the Petitioner and a photograph of him receiving an award, the titles correspond with the substance of the articles that are focused on the team. Additionally, even if the Petitioner had established that these articles are about him, he has not provided documentation of the circulation details of these publications or other similar evidence to establish that this material represents publications in professional or major trade publications or other major media. Therefore, the Petitioner has not established that he meets this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

This regulatory criterion contains multiple evidentiary elements that the Petitioner must satisfy. He must demonstrate that his contributions are original and scientific, scholarly, artistic, athletic, or business-related in nature. The contributions must have already been realized, rather than being

prospective possibilities. He must also establish that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase “major significance” is not superfluous and thus has meaning. See *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F.3d 28, 31 (3d Cir. 1995), quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003). The term “contributions of major significance” connotes that the Petitioner’s work has significantly impacted the field. See *Visinscaia*, 4 F. Supp. 3d at 134.

The Petitioner asserts that he meets this criterion due to his “massivation” recruitment and development program that he implemented at Club [REDACTED] the [REDACTED] [REDACTED] and the [REDACTED]. Specifically, he states that his work with Club [REDACTED] represents an original contribution of major significance because he turned the club into [REDACTED]’s “most acclaimed youth table tennis program” from 1998 to 2015. He also states that several [REDACTED] media articles cite his contributions to the sport. For the [REDACTED] he states that his original contributions are established through the evidence of the various youth development recruitment programs he has instituted over the past three years, and he asserts the same is true for his involvement with the [REDACTED]

With respect to his work with Club [REDACTED] and as discussed above, the record contains an article in the [REDACTED] Daily newspaper indicating that the Petitioner received a trophy from the president of the [REDACTED]. The article states that the president of the [REDACTED] congratulated the Petitioner for his work on “the development of Table Tennis in [REDACTED] and the region.” While this demonstrates the successes the Petitioner had in coaching at Club [REDACTED] and in the region, the Petitioner has not described how these successes or his “massivation” program indicates that he has made original contributions that have had a significant impact in the field, and he has not submitted supporting documentation to establish this. See *Kazarian*, 580 F.3d at 1036; *aff’d* in part, 596 F.3d at 1115 (holding that the petitioner had not established how his contributions had influenced the field to equate to contributions of major significance).

Regarding the Petitioner’s work with the [REDACTED], the record reflects that he has successfully helped grow the sport of table tennis through his involvement with these organizations in these areas where he has worked, but he has not shown how this work constitutes original contributions that have significantly impacted the field. The record contains two letters from [REDACTED] chief executive officer of [REDACTED] describing the Petitioner’s roles with these organizations. In his second letter, [REDACTED] states that as head coach of the [REDACTED] the Petitioner has coached top [REDACTED] table tennis players who have achieved high levels of success, one of whom is ranked second of boys under 14 years of age in the [REDACTED] and another is ranked first in boys under 12 years of age. While the impact of his coaching for these two young men is notable, in addition to the other individuals the Petitioner has coached that we will discuss further below, he has not explained how he has made original contributions as a coach that have impacted the field of table tennis.

[REDACTED] also states that the Petitioner has initiated numerous physical education programs in schools, table tennis clinics, and coaching camps, and that he has organized youth tournaments and [REDACTED] school competitions in Wisconsin. However, the Petitioner has not explained how these physical education programs represent original contributions that have significantly impacted the field. Letters from experts may add value if they specifically articulate how a petitioner’s original contributions are

of major significance and what impact they had on subsequent work, while letters that lack specifics and simply use hyperbolic language do not add value and are not considered to be probative evidence that may form the basis for meeting this criterion.¹

Finally, the Petitioner asserts that he meets this criterion on account of the number of athletes he has coached who have reached high levels in their sport. The record contains a letter from [REDACTED] [REDACTED] the general coordinator for the [REDACTED] Center in the city of [REDACTED].² He states that the Petitioner “initiated the work of forming a high performance competition team of 150 players that has had great results at the state level.” He indicates that the Petitioner trained players “such as [REDACTED] ([REDACTED] Junior Team 2004) and [REDACTED] ([REDACTED] who represents [REDACTED] and is the Best player of the Americas in Class 10 and ranked Top 20 internationally) who were in numerous international championships, World Games, Pan-American Games, and the 2012 [REDACTED] [REDACTED]” The Petitioner also provided a letter from [REDACTED] in which he claims that he has no doubt that the training, support, and motivation that he received from the Petitioner enabled him to have such a successful career. While we acknowledge the Petitioner’s success as a table tennis coach, he has not explained how the number of individuals he has coached, or the level of success they have attained, demonstrate that he has made original contributions that have had a major impact in the field. The term “contributions of major significance” connotes that the Petitioner’s work has significantly impacted the field. *See Visinscaia*, 4 F. Supp. 3d at 134. Therefore, the Petitioner has not established that he has made original contributions that have significantly impacted the field to meet this criterion.

Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

The Director held that the Petitioner had not established that he met this criterion because he is not a visual artist and has not demonstrated that his work was on display at artistic exhibitions or showcases. The Petitioner states on appeal that his work has been extensively displayed at major international exhibitions and showcases in the sport of table tennis. He asserts that there is no reason to distinguish between athletic and artistic exhibitions or showcases. Here, we note that the regulation requires that the display of the individual’s work is at “artistic exhibitions or showcases,” and the Petitioner has not demonstrated that the athletic exhibitions he participated in equate to artistic exhibitions. Therefore, the Petitioner has not established that he meets this criterion.

¹ USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator’s Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 8-9 (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

² While we do not cite to each letter in support of the petition, we have considered all of them. *See Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 544 (S.D.N.Y. 2012) (citing *Chen v. U.S. Dep’t of Justice*, 471 F.3d 315, 338 n. 17 (2d Cir. 2006)).

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Director held that the Petitioner plays a leading or critical role with the [] but that the record does not establish that this organization has a distinguished reputation in the field, which the Director noted is “marked by eminence, distinction, or excellence.”³

On appeal, the Petitioner states that he meets this criterion for his role as the head coach of the [] and as the founder and head coach of the table tennis team Club []. The Petitioner states that his leading roles at Club [] was one of the reasons why he was “selected by the [] National Olympic Committee and [] to represent [] at the 2003 [] training course in Cuba.” The Petitioner also indicates on appeal that his leading role is shown by the recognition he received in 2004 for coaching excellence by the President of []. The record contains a letter from [] the president of the [] Table Tennis League, indicating that Club [] has a distinguished reputation in [] as a table tennis club, noting not only its growth in the region, but its successes as a club and in developing players who have competed at very high levels in the field. This is corroborated by the articles noted above in the [] Daily newspaper in which the Petitioner received a trophy from the president of the [] for his work in expanding table tennis in the region through Club []. Accordingly, the record establishes that Club [] has a distinguished reputation. Therefore, the Petitioner has established that he meets the requirements of this criterion through his role as founder and head coach of Club [].⁴

B. Comparable Evidence

On appeal, the Petitioner argues that his work on display at international exhibitions or showcases should be considered as comparable evidence of the “showcase of his work in lieu of 8 C.F.R. § 204.5(h)(3)(vii),” a criterion that requires “[e]vidence of the display of the alien’s work in the field at artistic exhibitions or showcases.” The regulation at 8 C.F.R. § 204.5(h)(4) allows for comparable evidence if the listed criteria do not readily apply to his occupation. A petitioner should explain why he has not submitted evidence that would satisfy at least three of the criteria set forth in 8 C.F.R. § 204.5(h)(3) as well as why the evidence he has included is “comparable” to that required under 8 C.F.R. § 204.5(h)(3).⁵

Here, the Petitioner has not shown that the listed criteria do not readily apply to his occupation. He has not asserted or demonstrated that he cannot offer evidence that meets at least three of the ten criteria. As discussed, the Petitioner has claimed to meet more than three criteria and it has been established that he meets two criteria. Moreover, the Petitioner has not shown that table tennis coaches cannot present evidence relating to at least three other regulatory criteria. As such, the Petitioner has not established that he is eligible to meet the initial evidence requirements through the submission of comparable evidence.

³ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10-11.

⁴ As the Petitioner has established his leading or critical role with Club [] we need not address his role with the [].

⁵ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 12.

C. O-1 Nonimmigrant Status

We note that the record reflects that the Petitioner received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard – statute, regulations, and case law. Many Form I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *Louisiana Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

III. CONCLUSION

The Petitioner is not eligible because he has not submitted the required initial evidence of either a qualifying one-time achievement, or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The record does not establish that the Petitioner qualifies for classification as an individual of extraordinary ability. The appeal will therefore be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of F-P-D-B-*, ID# 3157461 (AAO July 10, 2019)